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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/671,425	09/25/2003	William E. Luce	BFGRP0318USA	5819

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EXAMINER

TORRES, MELANIE

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 02/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/671,425

Applicant(s)

LUCE, WILLIAM E.

Examiner

Melanie Torres

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 December 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, and 18-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Labrecque.

Re claims 1 and 18-20, Labrecque discloses an aircraft shock strut, comprising a cylinder (40), a piston (43) telescopically movable within the cylinder and defining therein a sealed chamber partially filled with a liquid and partially filled with a gas; and at least one probe (11) associated with the chamber for sensing a condition of a level of liquid in the chamber.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2-4, 10-17, 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Labrecque in view of Robinson (2002/0124643).

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Re claims 2-4, 10-17, 21 and 22, Labrecque does not teach a cable that passes through the wall of the strut for connecting to the probe. Robinson discloses a cable (5) that passes through the wall of the strut for connecting to the probe. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included the cable of Robinson with the probe of Labrecque to allow for remote viewing of the fluid level.

5. Claims 5-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Labrecque in view of Robinson (2002/0124643) and further in view of Girvin et al.

Re claims 5 and 6, Labrecque as modified does not teach a fitting assembly that seals a cable with respect to the strut. Girvin et al. teaches a fitting assembly (84) that seals a cable with respect to a strut. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the fitting assembly of Girvin et al. in the strut of Labrecque as modified in order to provide a secure assembly of components.

Re claims 7-9, Labrecque as modified does not teach wherein the plug has an annular groove for receiving an o-ring seal. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided an o-ring seal, since seals are well known in shock absorbers for use at critical locations for adequate sealing thus preventing leakage of the working fluids.

Response to Arguments

6. Applicant's arguments filed December 6, 2004 have been fully considered but they are not persuasive.

Applicant argues that Labrecque does not teach wherein the chamber senses a condition of a level of liquid through interaction with the liquid in the chamber. This is not found persuasive since it is clearly disclosed by the prior art that "a depletion of the supply of oil will cause piston 53 to rise in the cylinder and the positive connection of the rod 52 to the piston 53 will drive colored indicator 54 at the upper end of the rod 52 further out of the cylinder 50." Though the indicator is connected to the piston and operates through movement of it, applicants claim language is not specific enough to preclude the current interpretation. Applicants arguments with respect to "on-ground inspection" are also more specific than the claim language.

Finally, in response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Robinson is relied upon merely as a teaching reference of a fluid level indicator. It's use is irrelevant since the aircraft shock strut limitation is met by the base reference (Labrecque). Therefore, the above rejections are maintained.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melanie Torres whose telephone number is (703)305-0293. The examiner can normally be reached on Monday-Friday, 6:30 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bucci can be reached on (703)308-3668. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MT

February 9, 2005

Robert A. Siggolf 2/21/05
ROBERT A. SIGGOLF
PATENT ENGINEER